

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 JOHN DELBERT LLOYD,

11 Defendant.

NO: 2:13-CR-2086-TOR-1

ORDER DENYING MOTION TO
VACATE, SET ASIDE OR CORRECT
SENTENCE PURSUANT TO 18
U.S.C. § 2255

12 BEFORE THE COURT are Defendant's Motion to Vacate, Set Aside, or
13 Correct Sentence Pursuant to 18 U.S.C. § 2255 (ECF No. 148) and the United
14 States' Motion to Vacate Hearing and Hold Petitioner's Motion in Abeyance (ECF
15 No. 150). The Court—having reviewed the motions, the record, and files
16 therein—is fully informed.

17 Defendant seeks resentencing based on the reasoning of *Johnson v. United*
18 *States*, 135 S. Ct. 2551 (2015), contending that his sentence was based on an
19 unconstitutional definition of the term “crime of violence” used in the United
20 States Sentencing Guidelines. He argues that the definition set forth in U.S.S.G.

ORDER DENYING MOTION TO VACATE, SET ASIDE
OR CORRECT SENTENCE PURSUANT TO 18 U.S.C. § 2255 ~ 1

§ 4B1.2(a)(2) (repealed Aug. 2016) is void for vagueness, because *Johnson* held the identically worded residual clause in the Armed Career Criminal Act of 1984, 18 U.S.C. § 924(e)(2)(B)(ii), was void as well. The Supreme Court of the United States has now ruled otherwise. *Beckles v. United States*, ___U.S.___, 2017 WL 855781 (2017) (“the advisory Guidelines are not subject to vagueness challenges under the Due Process Clause”).

ACCORDINGLY, IT IS ORDERED:

1. Defendant’s Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 18 U.S.C. § 2255 (ECF No. 148) is **DENIED**.
2. The United States’ Motion to Vacate Hearing and Hold Petitioner’s Motion in Abeyance (ECF No. 150) is **DENIED** as moot.

The District Court Executive is directed to enter this Order, provide copies to the parties, and close the corresponding civil file.

DATED March 9, 2017.



Thomas O. Rice
THOMAS O. RICE
Chief United States District Judge